



# MILWAUKEE POLICE DEPARTMENT

## STANDARD OPERATING PROCEDURE

### 890 – CIVIL LITIGATION

**GENERAL ORDER:** 2012-14

**ISSUED:** April 18, 2012

**EFFECTIVE:** April 18, 2012

**ACTION:** Recreates SOP. Rescinds G.O. 2006-33 (December 13, 2006)

#### **890.00 PURPOSE**

The purpose of this Standard Operating Procedure is to communicate the proper procedures to follow when the City of Milwaukee, the Milwaukee Police Department or a department member is named as a party to civil litigation stemming from actions taken by the member while performing his/her official duties. It is imperative for department members to comply with the procedures set forth below. Failure to do so may result in a default judgment being entered against the City and/or the department member individually. Accordingly, department members are required to cooperate with the Office of the Milwaukee City Attorney, and any other government officials who may be involved with representing the interests of the department member, the Milwaukee Police Department and/or the City of Milwaukee.

#### **890.05 LAWSUIT AND CLAIM INVESTIGATION PROCEDURES**

The following procedures shall be followed when responding to requests for further investigation made by the Office of the Milwaukee City Attorney in the context of civil claims and/or lawsuits filed against the City and/or its employee(s), regarding actions taken by department members while performing their official duties.

- A. Whenever an investigation or information is requested by the Office of the Milwaukee City Attorney, after a "Notice of Claim" or "Summons and Complaint" has been filed naming the Milwaukee Police Department, the City of Milwaukee and/or a department member as a party, the commanding officer of Internal Affairs shall direct members assigned to Civil Litigations of Internal Affairs to conduct such an investigation or gather such information. The results shall be forwarded to the Milwaukee Office of the City Attorney, to assist in defending against the claim/complaint.
- B. When conducting such an investigation, members of Civil Litigations shall gather all necessary information and record same on "*Department Memorandum*" forms (Form PM-9E), and provide copies of same to the Office of the Milwaukee City Attorney.

- C. Whenever an investigation is undertaken at the request of the Office of the Milwaukee City Attorney, each officer responding with a written report should begin the report by stating, "Per the request of the Office of the Milwaukee City Attorney, I am submitting the following information."
- D. Prior to any department member being interviewed or ordered to prepare a "Department Memorandum" (Form PM-9E) as part of a claim or lawsuit investigation conducted at the request of the Office of the Milwaukee City Attorney, the member shall be informed that all information provided by the member and the fruits thereof will not be used against the member in any criminal prosecution or personnel action.
- E. Responsive written reports submitted by department members must be returned to Civil Litigations within seven (7) days of the department member's receipt of the request for the report. If the responsive report cannot be completed within seven (7) days for good reason, the member shall immediately contact a representative of Civil Litigations. Whenever an investigation relative to a lawsuit or claim is undertaken at the request of the Office of the Milwaukee City Attorney, and is related to a previous personnel investigation, members shall generate new responsive documents, and not submit copies of documents submitted in the context of that previous investigation.
- F. Whenever a department member receives a notification memorandum from the commanding officer of Internal Affairs regarding a civil lawsuit or other court-related matter, the member shall take note of the information contained within the memorandum, sign the memorandum, promptly return the original, signed memorandum to Internal Affairs, and then take action consistent with any directives contained within the memorandum, within seven (7) days of receipt thereof.

**Note: Civil lawsuit notifications are sent in lieu of a subpoena at the direction of the Office of the Milwaukee City Attorney. These notifications are equivalent to a direct order from the commanding officer of Internal Affairs. Accordingly, the member shall comply with the information and/or instructions given.**

#### **890.10 "SUMMONS AND COMPLAINT" AND "NOTICE OF CLAIM" PROCEDURES**

- A. A department member served with a "Summons and Complaint" or a "Notice of Claim" shall submit a "Department Memorandum" (Form PM-9E) stating the date, time, manner of service (i.e. personal, mail, left with family member), and the name and title of the process server.
- B. The department member shall specifically state within the "Department Memorandum" (Form PM-9E) that they are "requesting representation from the Office of the Milwaukee City Attorney," regarding the subject matter of the complaint or claim.

- C. The department member shall promptly submit the "*Department Memorandum*" (Form PM-9E) to his/her shift commander or immediate supervisor, who in turn shall review the report, date/time stamp the report, sign it, and return it to the department member.
- D. It is the responsibility of the department member served with a "Summons and Complaint" to see that the "*Department Memorandum*" (Form PM-9E) and the original "Summons and Complaint" are hand-delivered to Internal Affairs within five (5) calendar days of service.
- E. Regarding a "Notice of Claim", the "*Department Memorandum*" (Form PM-9E) and the original "Notice of Claim" can be either hand delivered or mailed via interdepartmental mail, to Internal Affairs, within five (5) calendar days of service.
- F. Department members who are unable to comply with any of the above procedures, due to a vacation, an extended leave of absence, or any other significant reason, shall call their commanding officer or a representative of Civil Litigations [REDACTED] for further instructions.

#### **890.15 SERVICE OF LEGAL DOCUMENTS UPON THE CHIEF OF POLICE**

- A. Legal documents (i.e. "Notice of Claim", "Summons and Complaint", subpoenas, etc.) directed to or naming the Chief of Police will only be accepted for service by representatives of Internal Affairs, who are located at the Police Academy, which itself is located at 6680 North Teutonia Avenue. Such service of process will be accepted Monday through Friday, from 7:30 a.m. to 4:30 p.m., at the front counter of the Police Academy office. Internal Affairs personnel will be called by personnel assigned to monitor the front counter to meet the process server at the Police Academy office, to accept service of legal documents as a designee of the Chief of Police.
- B. In certain exigent circumstances, such as those involving a Writ of Habeas Corpus, an Order to Cease and Desist, a Court Injunction or a Restraining Order, where legal process must be served after 4:30 p.m. or on weekends, the matter must be referred to the on-duty commanding officer of the Criminal Investigation Bureau. (Note that the service of subpoenas naming department members does NOT constitute an exigent circumstance for referral to the Criminal Investigation Bureau.)



EDWARD A. FLYNN  
CHIEF OF POLICE

EAF:djw